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6 CASE #: 19-2-08028-1 SEA

7 SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR KING COUNTY

9 LINCOLN C. BEAUREGARD,

10 Plaintiff,

11 v.

12 WASHINGTON STATE BAR
ASSOCIATION, a statutorily created entity,

13 Defendant.

NO.

**COMPLAINT FOR DAMAGES:
TRANSPARENCY & GOVERNANCE
VIOLATIONS**

14 COMES NOW the Plaintiff, Lincoln C. Beauregard, by and through his attorneys of
15 record, himself (*pro se*) and Steve Fogg, and allege as follows:

16 **I. PARTIES**

17 1. Plaintiff Lincoln C. Beauregard is a Washington State resident and a member,
18 in good standing, of the Washington State Bar Association and the most recent recipient of the
19 Washington State Association for Justices' award for Trial Lawyer of the Year. Mr. Beauregard
20 is also represented by Steve Fogg, the most recent recipient of the Trial Lawyer of the Year
21 from American Board of Trial Advocates.

22 2. Defendant Washington State Bar Association (WSBA) is a statutorily created
23 entity which may "sue and be sued" in accord with RCW 2.48.010 and has a Board of Governors
24 ("BOG") constituted in accord with RCW 2.48.030.
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1 3. The powers possessed by the WSBA are delegated by the Washington State
2 Supreme Court, GR 12.2. By law, the Washington Supreme Court maintains the oversight and
3 supervision powers over the WSBA. *Id.*

4 **II. STATEMENT OF FACTS**

5 4. This lawsuit is targeted at the transparency violations on the part of the
6 Washington State Bar Association's sitting Board of Governors. There is a group (quorum) of
7 eight (8) most focal offending members. As the stewards of law and order, this entity, the BOG,
8 has drifted far and away from the obligations to its constituency — the members of the WSBA
9 and the general public. The BOG is acting contrary to law and thereby eroding public
10 confidence.

11 5. Not every member of the Board has deviated from the transparency mandates.
12 Selected governors may be individually named as defendants later in the litigation, if necessary.
13 In a series of recent actions, the Board of Governors has engaged in repeated actions in violation
14 of the controlling transparency principles mandated by law. The existing evidence suggests
15 that a quorum of governors believe that they are above the law and can act without
16 accountability, such as via secret tally.

17 6. By way of history, President Bill Pickett has worked diligently to try and bring
18 order to the chaos. In email correspondence dated August 30, 2018, President Pickett noted to
19 the BOG that, "*The Public Meetings Act is a very good law that encourages transparency and*
20 *honest dealing. Meetings, secret or otherwise, between just part of the Board have been a*
21 *concern to me for quite some time. Even more troubling is a concern regarding the perception*
22 *that votes have been actually counted and/or traded in advance of our public meetings...*"
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1 7. By contrast, the most offensive and offending board member and Treasurer,
2 Dan'L Bridges, has taken the position that being a member of the BOG raises an elected
3 governor to the level of deity, noting, "*We are the Board of Directors of the State Bar*
4 *Association...When we ask for something, it is not a request to be accommodated. It is a*
5 *directive, while hopefully always respectfully and politely made with please and thank you, to*
6 *be fulfilled.*"¹ It should be noted that board seats are often filled by default in unopposed
7 "elections." Mr. Bridges' term expires this year. In relation to transparency laws, specifically
8 the OPMA, Mr. Bridges believes that "*given our status [we] are not subject to it.*"²

10 8. In a letter dated September 21, 2018, and perhaps in reaction to BOG members
11 such as Mr. Bridges, Chief Justice Mary Fairhurst reminded that BOG, in writing, that "*It is*
12 *critical to the integrity of all Bar Discipline matters be protected at all times and that Executive*
13 *Director be allowed to oversee these functions without interference. In light of these*
14 *communications and concerns, we felt that it was important to communicate to you that the*
15 *Court by a majority vote supports the Executive Director as the principal administrative officer*
16 *of the Bar...Finally, and the most important, it is imperative that everyone, each Governor,*
17 *each volunteer, each employee, including the Executive Director, be treated with respect. The*
18 *ongoing interactions among the Governors and the Governors' interaction with staff are of*
19 *concern to us.*"

21 9. Fast forward to 2019, and a popular petition which is circulating among engaged
22 WSBA members summarizes the most focal violation at issue:
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26 ¹ Bridges email to Former WSBA General Council Sean Davis dated July 2, 2018

² Bridges email dated August 20, 2018 to other governors

1 Without input from WSBA staff, WSBA members, or the Washington State Supreme
2 Court, the WSBA BOG, suggesting only that it wished to "go in a new direction,"
3 with such "new direction" still not yet disclosed, took action to terminate Ms.
4 Littlewood in Executive Session on or about January 17, 2019. In a public session
5 held on March 7, 2019, the WSBA BOG then affirmed this vote of termination, but
6 again without any clarification of the basis of removal and without disclosure of this
7 "new direction."
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9 While not drawing any conclusions as to the underlying merit of any ultimate
10 termination decision, this referendum is put forward to reverse the termination of
11 the Executive Director because it is believed to be in the best interest of the WSBA,
12 its members, and the members of the public based upon consideration of the
13 following: A termination of the Executive Director should be done with transparency
14 and model best practices; and a termination of the Executive Director should not be
15 at a time when there are significant legislative and legal matters pending that will
16 require Ms. Littlewood's institutional knowledge and adept leadership.
17

18 10. Preceding Ms. Littlewood's termination, public allegations against the current
19 Treasurer, Dan'L Bridges, entered the public sphere. An investigatory report dated July 16,
20 2018 suggested that the victim was credible, and Mr. Bridges, not so much, finding "*it more*
21 *likely than not that Mr. Bridges engaged in certain actions that he strongly denies.*" The
22 allegations were amplified in a *Seattle Times* news story which was published on December 11,
23 2018.³ Regardless, the gang (quorum) of eight (8) elevated Mr. Bridges to the position of
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26 ³ <https://www.seattletimes.com/seattle-news/washington-state-bar-association-employee-claims-agencys-board-failed-to-discipline-governor-who-allegedly-harassed-her/#comments>

1 Treasurer. It is suspected and believed that Ms. Littlewood was terminated, based upon a false
2 impression of disobedience on the part of the offending BOG members, and in retaliation for
3 circumstances related to the allegations against Mr. Bridges. Some of the offending Board
4 members may have acted unwittingly, by way of manipulation.

5 11. The existing at-large Board members, Athan Papailliou and Alec Stephens,
6 publicly reported being silenced in relation to the decision-making process noting: "*All*
7 *governors were prohibited from reporting the action, which had apparently been planned and*
8 *orchestrated for some time.*" Governor Chris Meserve shared this same sentiment, in favor of
9 transparency. The fact that sitting BOG members are publicly reporting being silenced is
10 conclusive evidence that the transparency laws have not been followed.

11 12. The hard-working staff of the WSBA have attempted to bring sanity, and
12 intervention, to the ongoing acrimony on the part of the BOG. An open letter from much of
13 their staff summarizes some of the concerns:
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16 Washington Supreme Court
17 Sent Via Email

18 January 23, 2019

19 Dear Justices,

20 We, the undersigned staff of the Washington State Bar Association, are writing to follow up with you about our
21 recent statements presented to the Board of Governors on January 18, 2019, regarding the mishandling of a
22 sexual harassment claim. Our concerns and disapproval of the Board's handling of the situation are elaborated
23 upon in the attached letter that we shared with the Board at their meeting. You can view the full conversation,
24 including other thoughtful comments given by our colleagues and WSBA members, in the recording of that
25 [meeting here](#).

26 We are reaching out to you today as fellow advocates of justice. Your leadership and support of Court
commissions and boards help to create a more equitable justice system, center marginalized voices, and support
ways that we can increase the public trust and confidence in our state's justice system. It is in the spirit of being
partners in promoting equity and justice that we write to ask for your help.

1 It has become apparent to us that the Board of Governors is not structured properly to self-regulate harassment
2 claims brought against one of its own members. We have witnessed what appears to be self-dealing and
3 conflicts of interest at the expense of upholding integrity in dealing with a harassment claim that was given
4 credibility by a third party investigator. Knowing that the Board of Governors is incapable of taking harassment
5 claims seriously leaves the staff feeling unprotected and disrespected. This is not acceptable. With the blatant
6 lack of appropriate anti-harassment policies in place, the safety and protection of WSBA staff now falls to the
7 WA Supreme Court.

8 It is essential that this Court intervene to ensure the integrity of the legal profession and maintain a sense of
9 confidence by the general public. A governor that has been entrusted to uphold the values of fairness and
10 justice cannot be privy to the financial dealings of the very entity that he seeks to sue. The simple appearance of
11 impropriety and conflicts of interest will detrimentally impact the public perception of this profession. It is
12 essential, especially given the current state of affairs, that attorneys are viewed as advocates for justice and not
13 as self-interested parties.

14 We ask that you intervene with the Board of Governors to ensure that a proper, objective and thorough anti-
15 harassment policy is created and vetted for integrity. The policy should include provisions for when harassment
16 claims must be resolved under the leadership of a third, objective party and include clear processes for when
17 removal of a governor or volunteer is appropriate. The policy should have clear expectations of behavior and
18 how to proceed when complaints are raised, including the expected recusal of parties with a conflict of interest.
19 Please provide leadership to ensure that the Board of Governors revisit the current situation with the proper
20 policy in place and continue to enforce the policy for any future similar situations. The Board of Governors have
21 broken their trust with the staff of WSBA and we ask that you intervene to provide the checks and balances that
22 we need to rebuild that trust.

23 Sincerely,

24 Bonnie Sterken
25 Dana Barnett

26 Paige Hardy
Robin Nussbaum

Laura Sanford
Paris Eriksen

Kalina Spasovska
Gabe Moore
Russell Johnson
Kris McCord
Colin Rigley
Dianne Plummer-Cranston
Noel Brady
Jim Hanneman

Michael Paugh
Jennifer Olegario
Pam Inglesby
Tyler Washington
Joy Williams
Patrick Mead
Margaret Shane
Sherry Lindner

Ana LaNasa-Selvidge
Barbara Ochota
Joanne Russell
Emily Cioc
Connor Smith
Diana Singleton

27 Enclosure: Open Letter to the Board of Governors

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We, the undersigned staff of WSBA, are writing to share our concerns with recent events and actions/inactions taken by the board. Since the public release in December of information relating to allegations of a board member's misconduct, many of us are uncomfortable and upset at work and some even question our level of safety and protection in our work environment.

From our perspective, a colleague disclosed an allegation of harassment by a board member and the board's response to that disclosure resulted in a process that lacked proper oversight, transparency, and consideration of our colleague's safety and well-being. Our colleague's accusation was subject to an independent investigation. The third-party investigator found our colleague's account of events to be credible. Even after receiving this report, the board chose not to remove or even censure the accused board member. Not only did this board fail to remove or censure the accused, the board promoted him to the position of treasurer, effectively rewarding the accused with an even more powerful position with more direct access to staff members.

Your processes are inadequate for managing these situations and the board refuses to hold itself accountable and fails to recognize its own conflicts of interest. The current attempt to shift litigation oversight from the general counsel to the board gives the impression of self-dealing, protectionism, and an enormous conflict of interest. This board's lack of transparency just further evidences the lack of accountability and responsibility.

We ask that you review your policies and create institutionalized systems for properly handling similar situations—including clear processes for when removal of a governor or volunteer is appropriate. We ask that you create policies that have clear expectations of behavior and how to proceed when complaints are raised, including the expected recusal of parties with a conflict of interest. We ask that you hold yourselves accountable for your mismanagement of this process. We further ask that you revisit this situation with a proper procedure in place.

Robin Nussbaum
Dana Barnett
Paige Hardy
Bonnie Sterken
Laura Sanford
Colin Rigley
Dan Crystal
Joy Williams
Kris McCord
Joanne Russell
Barbara Ochota

Michael Paugh
Diana Singleton
Whitney Kleinick
Connor Smith

COMPLAINT FOR DAMAGES - 7 of 12

2301 North 30th Street
Tacoma, WA 98403
(253) 593-5100 Phone - (253) 593-0380 Fax

1 February 5, 2019

2 Washington State Supreme Court
3 Temple of Justice
4 P.O. Box 40929
5 Olympia WA 98504

6 Re: Recent actions by the WSBA Board of Governors

7 Dear Chief Justice Fairhurst and Justices of the Supreme Court

8 As Past Presidents of the Washington State Bar Association, we write to express our concern
9 over recent developments at the WSBA, and to ask that the Court exercise its powers of
10 oversight in what has become a situation fraught with the risk of serious harm to
11 individuals, to the WSBA, and, by extension, to the public.

12 A recent article in the Seattle Times disclosed that a WSBA staff member has filed a sexual
13 harassment claim with the WSBA regarding a BOG member's alleged conduct toward her.
14 Independent issues of subsequent retaliation against her are also raised. The BOG member
15 involved was then elected as the Treasurer of the WSBA and that same BOG member has
16 now filed a \$1 million claim of his own against the WSBA which includes claims of
17 retaliation.

18 During the BOG's public session on Friday, January 18, 2019, multiple WSBA staff members
19 read a letter to the BOG signed by thirty-four of their colleagues. They criticized the BOG's
20 handling of this very serious matter. They and other staff members spoke of the disrespect
21 and trauma they feel at how the BOG has addressed these events. We are aware that they
22 have since written to the Court.

23 During the BOG's discussion following the staff's presentation, the Board was very divided
24 in how to proceed. Ultimately, a motion to suspend the WSBA BOG member from the
25 Treasurer position was debated and passed by a majority vote. The BOG member openly
26 objected to the action and he continues to serve on the Board despite being required to
temporarily step aside from serving as the WSBA Treasurer. He retains all other rights and
his position as a BOG member, including service upon the WSBA Executive Committee.

We make no judgment upon the merits of either the staff member's claim or the BOG
member's claim. However, we ask that the Court exercise its plenary supervisory authority
over the WSBA to ensure that the processes followed by the BOG, to review and act upon the
staff member's sexual harassment claim and the \$1 million claim of the BOG member,
represent the best practices of our profession while protecting the legal rights of those

involved. In this instance, WSBA members are powerless to effectively require appropriate action by the BOG; members only have the rights of referendum and BOG member removal by recall, neither of which is realistic here. The Executive Director is equally powerless to require or compel the BOG to take action. It is the BOG's responsibility to take appropriate action with respect to each claim, but to date their efforts appear inadequate.

We are particularly concerned about the grievances of the staff. The work of the WSBA is dependent upon the work of the WSBA staff. Each staff member is entitled to a safe workplace and respect. When staff members feel threatened, the respect, integrity, and credibility of the justice system and the legal profession are harmed. Further damage to the WSBA's relationship with its professional staff will occur if these issues are not adequately addressed.

Likewise, we ask the Court to determine whether and if a sitting BOG member, who is being investigated for an allegation of sexual harassment and who himself has a pending claim against the WSBA for monetary damages, has a conflict of interest requiring that person's recusal from any or all of the actions of the BOG pending the outcome of the claims.

We urge the Supreme Court to review these matters and assure that appropriate steps are being taken by the BOG to protect the rights, and enforce the obligations of those involved in these claims.

Very truly yours,

Stanley A. Bastian
(2007-2008)

M. Wayne Blair
(1998-1999)

Stephen R. Crossland
(2011-2012)

Stephen E. DeForest
(1992-1993)

Ellen Conedera Dial
(2006-2007)

Richard C. Eymann
(1999-2000)

Anthony David Gipe
(2014-2015)

William D. Hyslop
(2015-2016)

J. Richard Manning
(2002-2003)

Salvador A. Mungia
(2009-2010)

Jan Eric Peterson
(2000-2001)

Michele G. Radosevich
(2012-2013)

David W. Savage
(2003-2004)

Paul L. Stritmatter
(1993-1994)

S. Brooke Taylor
(2005-2006)

Steven G. Toole
(2010-2011)

Ronald R. Ward
(2004-2005)

Bradford E. Furlong
(2017-2018)

14. As further evidence of the degree of turmoil, on March 19, 2019, the most recent President of the Washington State Bar Foundation, and an impeccable appellate lawyer, Ken Masters, recently resigned premised upon indignation: *"This decision is simply wrong. There likely is no one in this country who knows more about the current challenges facing our*

1 *profession than Paula Littlewood. She has led our WSBA for many years with strength and*
2 *foresight. She was predicting the Janus decision, and other major changes at the federal level,*
3 *years before I was on the BOG (2012-2015). In part as a result of her foresight and leadership,*
4 *the Supreme Court has established a 'Structures' group to examine whether and how to best*
5 *restructure the bar to deal with these changes. Paula is invaluable to that process. And her*
6 *many years of outstanding service to our bar deserve far more than a curt, 'there's the*
7 *door.'...In protest of the BOG's unprincipled decision, I am resigning as President of the*
8 *Washington State Bar Foundation...We deserve real leadership, not secret meetings and*
9 *unexplained dismissals."*
10

11 15. In accord with GR 12.2, the Washington Supreme Court sits in a position of
12 supervision over the WSBA, and the BOG. The gang of eight (8) do have supervision. In this
13 regard, three (3) of the sitting Supreme Court Justices, Madsen, Johnson, and Wiggins, have
14 already spoken. In a letter dated March 13, 2019, these Justices collectively signed a letter
15 admonishing the actions of the BOG, noting *"If this board wishes to go in a new direction, it*
16 *should be so with guidance and open, transparent process that includes members of the*
17 *professions, members of the public, and a knowledgeable executive director."*
18

19 16. It is suspected that the BOG intends to take future impending personnel actions
20 and decisions also in violation of the applicable transparency principles. Selected offending
21 members of the BOG have an agenda, such as terminating hard working staff members out of
22 spite and/or to distract from pending sexual harassment allegations. This lawsuit does not
23 challenge the merits of the decisions at issue, but it does demand proper process.
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1 **III. TRANSPARENCY, FIDUCIARY & OPEN GOVERNANCE VIOLATIONS**

2 17. According to the WSBA Bylaws (Section VII, B “Open Meetings Policy”)
3 and/or the Open Public Meetings Act, the Board of Governors is required to take all actions,
4 including quorum deliberations and voting, in open and for full view of the public. These laws
5 have been repeatedly violated. According to the Bylaws, Section VII, B 10, “*Any member may*
6 *timely petition the BOG to declare any BOG final action voidable for failing to comply with the*
7 *provisions of these Bylaws. Any member may petition the BOG to stop violations or prevent*
8 *threatened violations of these Bylaws.*” Further, the BOG owes the members and the public a
9 fiduciary duty of care and stewardship, which has been breached in these ways.
10

11 18. Premised upon the violations noted herein, in accord with all of the applicable
12 legal principles, including the Open Public Meetings Act, the plaintiff demands that Ms.
13 Littlewood be reinstated and other likely impending violations be curtailed. To the extent that
14 the BOG wants to revisit the possible termination of Ms. Littlewood, it should be done after
15 adherence to “*transparent process that includes members of the professions, members of the*
16 *public, and a knowledgeable executive director.*” Further, the Supreme Court has ordered the
17 BOG to add three (3) new governors to the Board, and any subsequent votes should be taken
18 thereafter. Further, each member of the BOG should be subject to proper training on
19 governance and transparency principles.
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DATED this 21st day of March, 2019.

Lincoln C. Beauregard

CORR CRONIN LLP

COMPLAINT FOR DAMAGES - 12 of 12

CONNELLY LAW OFFICES, PLLC
2301 North 30th Street
Tacoma, WA 98403
(253) 593-5100 Phone - (253) 593-0380 Fax

The Supreme Court

State of Washington

BARBARA A. MADSEN
JUSTICE
TEMPLE OF JUSTICE
POST OFFICE BOX 40929
OLYMPIA, WASHINGTON
98504-0929



(360) 357-2037
FAX (360) 357-2103

March 13, 2019

sent via email

Re: Recent Actions by the BOG

Dear Board of Governors:

We urge this board to reconsider its decision to “go in a different direction” without first instituting a broad, open, and inclusive group of bar members, members of the public, and members of the Supreme Court-appointed boards to study the future of the bar, to determine whether a new direction is warranted, and in what direction the profession should go. What we have heard to date is only a statement by a handful of governors, without any explanation, that the bar is going in a “different direction,” apparently without obtaining the input and buy-in of the membership, the public, or the court for this new direction.

In the past, when the BOG has believed a course change was necessary, it has formed a task force or work group. Such a mechanism has allowed for broad participation by knowledgeable, invested members of the profession and the public. The governance task force is a representative example of such a BOG initiative. Another example of the appropriate process is the current Supreme Court structures work group. As you know, the court instituted a structures work group to evaluate the effect of such important cases as *Janus v. American Federation of State, County & Municipal Employees, Council 31* and *North Carolina State Board of Dental Examiners v. F.T.C.* Similarly, we urge this board to engage the membership and the public in developing its “different direction.”

We are also urging this board to rescind its unwise decision to terminate Paula Littlewood as the executive director. To separate a director who enjoys a strong, positive, national reputation, and whose evaluations within the Washington legal community have always yielded high marks makes no sense, particularly when the BOG is considering taking a 40,000 member organization in a different direction. If this board wishes to go in a new direction, and has appropriate input by the public and by members

who are affected, and can convince this court that the direction is to the benefit of the public and the profession, then it should do so with the strong leadership and resources that the executive director, Ms. Littlewood, offers and has offered in the past.

The BOG should realize that it is only one of several oversight boards. There are six other boards that were created by the Supreme Court and which also govern aspects of the legal profession in Washington. We have seen no evidence that those boards, which are independent from the BOG, have been consulted in any way in any of these decisions. If this board wishes to go in a new direction it should do so with guidance and an open, transparent process that includes members of the profession, members of the public, and a knowledgeable executive director.

We are also concerned with the unprecedented requests we've received from members this last year: former governors and presidents, bar staff, bar management, bar defense counsel contacting the court and asking for our intervention, a request that we suspend the entire BOG, etc. All of this should be enough to convince you that the "different direction" is the wrong direction.

Sincerely,



Barbara A. Madsen
Justice



Charles W. Johnson
Justice



Charles K. Wiggins
Justice

c: Justices
Bill Pickett, President, WSBA
Paula Littlewood, Exec. Dir., WSBA